

**Letter of Findings: 04-20210043
Sales and Use Tax
For the Tax Year 2018**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individual demonstrated that he paid the appropriate tax at the time the watercraft was registered and therefore has met his burden showing that the assessment was incorrect.

ISSUE

I. Sales and Use Tax - Burden of Proof.

Authority: IC § 6-2.5-2-1; IC § 6-2.5-3-1; IC § 6-2.5-3-2; IC § 6-8.1-5-1; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Rhoads v. Indiana Dep't of State Revenue*, 774 N.E.2d 1044 (Ind. Tax Ct. 2002).

Taxpayer protests the assessment of use tax, claiming that he paid tax to the BMV at the time when his agent registered and titled the watercraft.

STATEMENT OF FACTS

Taxpayer, an Indiana resident, purchased a watercraft in 2018. Taxpayer's agent, on behalf of Taxpayer, registered and titled the watercraft at the Indiana Bureau of Motor Vehicles ("BMV"). The BMV collected seven percent use tax on the purchase price.

In 2018, the Indiana Department of Revenue ("Department") conducted an audit and determined that Taxpayer did not pay sales or use tax on that purchase. As a result, the Department assessed additional tax, interest, and penalty.

Taxpayer protested, submitting additional information to support his protest. This Decision results. Further facts will be provided as necessary.

I. Sales and Use Tax - Burden of Proof.

DISCUSSION

The Department determined that Taxpayer purchased a watercraft without paying sales or use tax. Taxpayer disagreed, claiming that he paid the tax to the BMV at the time when his agent registered and titled the boat at the BMV. Thus, the issue is whether Taxpayer demonstrated that the Department's assessment was incorrect.

As a threshold issue, all tax assessments are prima facie evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Thus, the taxpayer is required to provide documentation explaining and supporting their challenge that the Department's assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

Indiana imposes an excise tax called "the state gross retail tax" (or "sales tax") on retail transactions made in Indiana. IC § 6-2.5-2-1(a). A person who acquires property in a retail transaction (a "retail purchaser") is liable for the sales tax on the transaction. IC § 6-2.5-2-1(b). Indiana also imposes a complementary excise tax - called "use tax" - "on the storage, use, or consumption of a vehicle, an aircraft, or a watercraft, if the vehicle, aircraft, or watercraft . . . is required to be titled, licensed, or registered by this state for use in Indiana." IC § 6-2.5-3-2(b). "Use" means the "exercise of any right or power of ownership over tangible personal property." IC § 6-2.5-3-1(a). The use tax is functionally equivalent to the sales tax. See *Rhoads v. Indiana Dep't of State Revenue*, 774 N.E.2d 1044, 1047 (Ind. Tax Ct. 2002).

To support his protest, Taxpayer submitted additional documents including copies of the title and registration concerning the watercraft in question. Taxpayer also provided a copy of the payment receipt demonstrating that the tax was properly paid to the BMV at the time of registration.

Upon review, the Department agrees that Taxpayer paid the appropriate tax at the time the watercraft was registered and therefore has met his burden demonstrating that the assessment is incorrect.

FINDING

Taxpayer's protest is sustained.

May 25, 2021

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